

AMENDED IN SENATE APRIL 25, 2005

SENATE BILL

No. 956

Introduced by Senator Simitian

February 22, 2005

~~An act to amend Section 7280 of the Revenue and Taxation Code, relating to taxation.~~ *An act to add Division 20.9 (commencing with Section 30990) to the Public Resources Code, and to add Section 7280.3 to the Revenue and Taxation Code, relating to coastal and ocean resources.*

LEGISLATIVE COUNSEL'S DIGEST

SB 956, as amended, Simitian. ~~Transient occupancy tax.~~ *Coast and Ocean Stewardship Act.*

Existing law authorizes the legislative body of a city, county, or a city and county to impose an excise tax for the privilege of occupying a living space in a hotel, inn, tourist home or house, motel, or other lodging space, as provided.

~~This bill would clarify that these provisions apply to the occupation of a living or lodging space in a hotel, inn, tourist home or house, motel, or other lodging space.~~

This bill would enact the Coast and Ocean Stewardship Act of 2005. The bill would levy a surcharge of \$1 per night per room on all charges for transient occupancy in the 20 counties that are located along the coast of the Pacific Ocean and the San Francisco Bay, including all cities within these counties, as well as the City and County of San Francisco.

The bill would provide that revenue collected from this surcharge shall be deposited in the Coast and Ocean Account Stewardship Tax (COAST) Fund, which the bill would establish. The bill would provide that money in the fund would, upon appropriation, be allocated to

specified entities to implement programs for coastal and ocean management.

This bill would result in a change in state taxes for the purpose of increasing state revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of 2/3 of the membership of each house of the Legislature.

This bill would make legislative findings and declarations regarding the need for special legislation.

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: ~~no~~
yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 7280 of the Revenue and Taxation~~
2 ~~Code is amended to read:~~

3 *SECTION 1. This act shall be known, and may be cited, as*
4 *the Coast and Ocean Stewardship Act of 2005.*

5 *SEC.2. The Legislature finds and declares all of the*
6 *following:*

7 *(a) California's coastal waters, and ocean and land*
8 *ecosystems associated with those waters, are natural resources*
9 *that must be protected by the government of California for future*
10 *generations.*

11 *(b) California's coast, ocean, and estuaries are precious,*
12 *irreplaceable resources of vital and enduring economic,*
13 *environmental, cultural, recreational, educational, and societal*
14 *importance to the state and to the nation.*

15 *(c) Sustaining healthy and ecologically robust and diverse*
16 *coast and ocean ecosystems, as well as maintaining the quality*
17 *and integrity of coastal land, air, and water resources for the*
18 *benefit of current and future generations, requires effective*
19 *stewardship that is supported by stable and adequate funding.*

20 *(d) Existing laws and programs to protect and restore marine*
21 *life, the coast, and the ocean, including the San Francisco Bay,*
22 *have been critically compromised due to historically inadequate*
23 *program funding, thereby endangering the economic and*
24 *environmental vitality of the coastal counties and the state as a*
25 *whole.*

1 (e) *Water quality at our coastal beaches is in jeopardy. In*
2 2003 alone, there were 5,384 beach closure days in California.
3 Eighty-nine percent of these were due to elevated bacteria levels
4 in the water, 6 percent from sewage or chemical spills, and 5
5 percent from preemptive rain advisories.

6 (f) *In 1998, California's beaches generated \$14 billion of*
7 *direct revenue and \$73 billion of indirect revenue.*

8 (g) *California beaches experience 567 million visitor days per*
9 *year.*

10 (h) *Approximately 80 percent of California's 36 million*
11 *residents live within a 30 mile drive from the Pacific Ocean.*

12 (i) *As California's coastal population increases, the number*
13 *and volume of discharges from industrial, residential, and*
14 *municipal facilities into our coastal waters also increase.*

15 (j) *Coastal and marine protection agencies have lost*
16 *significant resources, including staff, resulting from budget*
17 *reductions over the past several years, thus crippling their ability*
18 *to protect coastal resources as mandated by law.*

19 (k) *Continual inadequate funding of critical coastal and ocean*
20 *programs compels the Legislature to develop a permanent,*
21 *adequate funding source for coastal zone management.*

22 (l) *This funding source shall support coastal and ocean*
23 *management, operations, and maintenance activities that*
24 *implement the goals and objectives of all of the following:*

25 (1) *The Marine Life Protection Act (Chapter 10.5*
26 *(commencing with Section 2850) of Division 3 of the Fish and*
27 *Game Code).*

28 (2) *The Marine Life Management Act of 1998 (Chapter 1052*
29 *of the Statutes of 1998).*

30 (3) *The McAtteer-Petris Act (Title 7.2 (commencing with*
31 *Section 66600) of the Government Code).*

32 (4) *The Suisun Marsh Preservation Act of 1977 (Division 19*
33 *(commencing with Section 29000) of the Public Resources Code).*

34 (5) *The California Coastal Act (Division 20 (commencing with*
35 *Section 30000) of the Public Resources Code).*

36 SEC. 3. *It is the intent of the Legislature to do all of the*
37 *following:*

38 (a) *Maintain ongoing adequate funding levels for identified*
39 *coastal and ocean programs to enable the various entities to*
40 *carry out their respective missions.*

1 (b) Place a nominal tax on lodging in coastal counties that
2 directly benefit from tourism to raise revenue to enable the state
3 to sustain coastal and ocean resources for future generations.

4 (c) Work with the hospitality industry and the California
5 Travel and Tourism Commission to provide funding for an
6 ongoing national and international campaign to promote the
7 California coast as a world class tourist destination with
8 resulting economic benefits for the public and private sectors.

9 (d) Increase overall funding for the programs identified in this
10 act by \$75 million for fiscal year 2005–06, and provide for the
11 funding to be increased in subsequent fiscal years at a rate at
12 least equal to any percentage increase in the Consumer Price
13 Index.

14 SEC. 4. Section 7280.3 is added to the Revenue and Taxation
15 Code, to read:

16 7280.3. (a) A surcharge of one dollar (\$1) per night per
17 room, which shall be known as the Coast and Ocean Account
18 Stewardship Tax (COAST), shall be collected by the State Board
19 of Equalization on all charges for transient occupancy levied
20 pursuant to this chapter in the 20 counties that are located along
21 the coast of the Pacific Ocean and the San Francisco Bay,
22 including all cities within these counties, as well as the City and
23 County of San Francisco.

24 (b) The revenue collected from this surcharge shall be
25 deposited in the Coast and Ocean Account Stewardship Tax
26 (COAST) Fund, established by Section 30990 of the Public
27 Resources Code.

28 SEC. 5. Division 20.9 (commencing with Section 30990) is
29 added to the Public Resources Code, to read:

30
31 DIVISION 20.9. COAST AND OCEAN ACCOUNT
32 STEWARDSHIP TAX (COAST)
33

34 30990. (a) The Coast and Ocean Account Stewardship Tax
35 (COAST) Fund (hereafter the fund) is hereby created. The fund
36 shall be administered by the Secretary of the Resources Agency.

37 (b) The revenue collected from the surcharge levied pursuant
38 to Section 7280.3 of the Revenue and Taxation Code shall be
39 deposited in the fund and shall be utilized to fund the state's

1 coastal and ocean management programs pursuant to this
2 division.

3 (c) These funds may not be used to finance any program not
4 identified in this division. These funds may not be loaned to the
5 General Fund or any other special fund not specifically provided
6 for in this division.

7 30990.1. Upon appropriation, funds deposited into the fund
8 shall only be made available and shall be allocated pursuant to
9 the following schedule:

10 (a) A minimum of ____ percent to the Department of Fish and
11 Game to implement the Marine Life Protection Act (Chapter 10.5
12 (commencing with Section 2850) of Division 3 of the Fish and
13 Game Code) and the Marine Life Management Act of 1998
14 (Chapter 1052 of the Statutes of 1998).

15 (b) A minimum of ____ percent to the San Francisco Bay
16 Conservation and Development Commission to implement the
17 McAteer-Petris Act (Title 7.2 (commencing with Section 66600)
18 of the Government Code) and the Suisun Marsh Preservation Act
19 of 1977 (Division 19 (commencing with Section 29000)).

20 (c) ____ percent to the California Coastal Commission for
21 grants to local governments to update their local coastal
22 programs consistent with the California Coastal Act (Division 20
23 (commencing with Section 30000)).

24 (d) A minimum of ____ percent to the California Coastal
25 Commission to implement the California Coastal Act (Division
26 20 (commencing with Section 30000)).

27 (e) ____ percent to the California Travel and Tourism
28 Commission to promote tourism, including dining and overnight
29 accommodations, in the 20 coastal counties specified in Section
30 7280.3 of the Revenue and Taxation Code.

31 30990.2. (a) Subject to the availability of funds as
32 determined by Section 30990, funding shall be maintained at
33 sufficient levels to ensure that the programs identified in this
34 division fulfill the goals of the programs without interruption.

35 (b) Funding from this fund shall not preclude the use of
36 General Fund money to augment funding levels.

37 (c) The Resources Agency shall continue to seek available
38 federal funds where possible to carry out the purposes of this
39 division.

1 (d) The entities appropriated funds pursuant to this division
2 may use a maximum of 3 percent of the allocated funds for
3 reasonable and necessary administrative costs.

4 (e) Nothing in this division shall be construed to modify or
5 reduce the existing authority or responsibility of the entities
6 appropriated funds pursuant to this division.

7 30990.3. (a) By April 1 of each fiscal year, the Department
8 of Finance shall report to the Secretary of the Resources Agency
9 the amount of funds estimated to be available in the COAST
10 Fund for the following fiscal year for purposes identified in this
11 division.

12 (b) By May 15 of each fiscal year, the Secretary of the
13 Resources Agency shall submit to the Senate Budget and Fiscal
14 Review Committee, Assembly Budget Committee, and Legislative
15 Analyst's Office, a proposed division of the fund revenues
16 pursuant to the requirements of this division.

17 30990.4. The funding amounts specified in Section 30990.1
18 shall be deemed to be the minimum authorized for each program
19 for each fiscal year and shall be in addition to any funding the
20 identified entities may receive from other funding sources,
21 including, but not limited to, federal grant funds, other state
22 funding sources, or funding from nongovernmental sources.

23 SEC. 6. Due to the unique circumstances facing the 20
24 counties that are located along the coast of the Pacific Ocean
25 and the San Francisco Bay, including all cities within these
26 counties, as well as the City and County of San Francisco,
27 relating to the need to support coastal and ocean management,
28 the Legislature finds and declares that a general statute cannot
29 be made applicable within the meaning of Section 16 of Article
30 IV of the California Constitution. Therefore, the special
31 legislation contained in Section 4 of this bill is necessarily
32 applicable only to the 20 counties that are located along the
33 coast of the Pacific Ocean and the San Francisco Bay, including
34 all cities within these counties, as well as the City and County of
35 San Francisco.

36 ~~7280. (a) The legislative body of any city, county, or city and~~
37 ~~county may levy a tax on the privilege of occupying a room or~~
38 ~~rooms, or other living or lodging space, in a hotel, inn, tourist~~
39 ~~home or house, motel, or other living or lodging space unless the~~
40 ~~occupancy is for a period of more than 30 days. The tax, when~~

1 levied by the legislative body of a county, applies only to the
2 unincorporated areas of the county.

3 (b) For purposes of this section, the term “the privilege of
4 occupying a room or rooms, or other living or lodging space, in a
5 hotel, inn, tourist home or house, motel, or other living or
6 lodging space” does not include the right of an owner of a
7 time-share estate in a room or rooms in a time-share project, or
8 the owner of a membership camping contract in a camping site at
9 a campground, or the guest of the owner, to occupy the room,
10 rooms, camping site, or other real property in which the owner
11 retains that interest.

12 For purposes of this subdivision:

13 (1) “Time-share estate” means a time-share estate, as defined
14 by paragraph (1) of subdivision (x) of Section 11212 of the
15 Business and Professions Code.

16 (2) “Membership camping contract” means a right or license
17 as defined by subdivision (b) of Section 1812.300 of the Civil
18 Code.

19 (3) “Guest of that owner” means a person who does either of
20 the following:

21 (A) Occupies real property accompanied by the owner of
22 either of the following:

23 (i) A time-share estate in that real property.

24 (ii) A camping site in a campground pursuant to a right or
25 license under a membership camping contract.

26 (B) Exercises that owner’s right of occupancy without
27 payment of any compensation to the owner.

28 (C) “Guest of that owner” specifically includes a person
29 occupying a time-share unit or a camping site in a campground
30 pursuant to any form of exchange program.

31 (e) For purposes of this section, “other living or lodging
32 space” includes, but is not limited to, a camping site or a space at
33 a campground or recreational vehicle park, but does not include
34 any of the following:

35 (1) Any facilities operated by a local government entity.

36 (2) Any lodging excluded pursuant to subdivision (b).

37 (3) Any campsite excluded from taxation pursuant to Section
38 7282.

39 (d) Subdivision (b) does not affect or apply to the authority of
40 any city, county, or city and county to collect a transient

1 occupancy tax from time-share projects that were in existence as
2 of May 1, 1985, and which time-share projects were then subject
3 to a transient occupancy tax imposed by an ordinance duly
4 enacted prior to May 1, 1985, pursuant to this section. Chapter
5 257 of the Statutes of 1985 may not be construed to affect any
6 litigation pending on or prior to December 31, 1985.

7 (e) (1) (A) If the legislative body of a city, county, or city and
8 county elects to exempt from a tax imposed pursuant to this
9 section any of the following persons whose occupancy is for the
10 official business of their employers, the legislative body shall
11 create a standard form to claim this exemption and the officer or
12 employee claiming the exemption shall sign the form under
13 penalty of perjury:

14 (i) An employee or officer of a government outside the United
15 States:

16 (ii) An employee or officer of the United States government.

17 (iii) An employee or officer of the state government or of the
18 government of a political subdivision of the state.

19 (B) The standard form described in subparagraph (A) shall
20 contain a requirement that the employee or officer claiming the
21 exemption provide to the property owner one of the following, as
22 determined by the legislative body of the city, county, or city and
23 county imposing the tax, as conclusive evidence that his or her
24 occupancy is for the official business of his or her employer:

25 (i) Travel orders from his or her government employer.

26 (ii) A government warrant issued by his or her employer to
27 pay for the occupancy.

28 (iii) A government credit card issued by his or her employer to
29 pay for the occupancy.

30 (C) The standard form described in subparagraph (A) shall
31 contain a requirement that the officer or employee provide photo
32 identification, proof of his or her governmental employment as
33 an employee or officer as described in clause (i), (ii), or (iii) of
34 subparagraph (A), and proof, consistent with the provisions of
35 subparagraph (B), that his or her occupancy is for the official
36 business of his or her governmental employer.

37 (2) There shall be a rebuttable presumption that a property
38 owner is not liable for the tax imposed pursuant to this section
39 with respect to any government employee or officer described in
40 clause (i), (ii), or (iii) of subparagraph (A) of paragraph (1) for

1 ~~whom the property owner retains a signed and dated copy of a~~
2 ~~standard form that complies with the provisions of subparagraphs~~
3 ~~(B) and (C) of paragraph (1).~~

4 ~~(f) The provisions of subdivision (e) are not intended to~~
5 ~~preclude a city, county, or city and county from electing to~~
6 ~~exempt any other class of persons from the tax imposed pursuant~~
7 ~~to this section.~~

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